

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

**WARREN UNILUBE, INC.,**

**Employer,**

**and**

**Case 26-RC-8616**

**TEAMSTERS LOCAL 667,**

**Petitioner**

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**EMPLOYER WARREN UNILUBE, INC.'S EXCEPTIONS TO  
REPORT ON OBJECTIONS**

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Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, Warren Unilube, Inc. ("Warren Unilube") respectfully files these Exceptions to Report on Objections. Warren Unilube respectfully submits that these Exceptions and the evidence submitted herewith establish that the Board should reject the Regional Director's recommendations in his Report on Objections (the "Report"), sustain Warren Unilube's objections to the election, set aside the election conducted on November 5, 2010, and direct a new, rerun election. In the alternative, at a minimum, Warren Unilube requests that the Board determine that substantial and material factual issues exist and direct that a hearing be held before a hearing officer in accordance with Section 102.69(f) of the Board's Rules and Regulations.

**EXCEPTIONS TO REPORT ON OBJECTIONS**

Warren Unilube now hereby excepts to the Regional Director's Report on Objections ("Report") in the following respects:

1. Warren Unilube excepts to the Regional Director's conclusion that "the Employer has not met its burden of establishing that the alleged objectionable conduct affected the

employees in the voting unit sufficiently enough to warrant setting aside the election," (Report at 1), on the grounds that the Regional Director's conclusion is not supported by the record and is legally erroneous.

2. Warren Unilube excepts to the Regional Director's summary of Warren Unilube's first objection, (Report at 2-4), to the extent that summary is inconsistent with and/or does not fully describe all facts and legal arguments relevant to that objection, as set forth in Warren Unilube's Objections to Conduct Affecting Results of Election and in Warren Unilube's November 23, 2010 and November 24, 2010 letters and the documents provided therewith.

3. Warren Unilube excepts to the Regional Director's statement of the standard for setting aside an election, (Report at 6), on the grounds that the Regional Director's statement is not a full and complete statement of the applicable standard.

4. Warren Unilube excepts to the Regional Director's summary of the Board's blocking charge policy, (Report at 7), on the grounds that it is not an accurate, full or complete statement of that policy.

5. Warren Unilube excepts to the Regional Director's summary of the facts relevant to Warren Unilube's first objection, (Report at 7), to the extent that summary is inconsistent with and/or does not fully describe all facts and legal arguments relevant to that objection, as set forth in Warren Unilube's Objections to Conduct Affecting Results of Election and in Warren Unilube's November 23, 2010 and November 24, 2010 letters and the documents provided therewith. Specifically, and without limiting the generality of the foregoing, Warren Unilube excepts to the Regional Director's statements that:

- a. "the charge was ultimately withdrawn by the Union," (Report at 7), on the grounds that the Regional Director's statement is not supported by the record and is factually erroneous;

- b. "there is no basis to conclude that the charge was frivolous or baseless in these circumstances," (Report at 7), on the grounds that the Regional Director's statement is not supported by the record and is factually and legally erroneous; and
- c. "the Region properly exercised discretion under the Board's well established blocking charge guidelines and postponed the election until the charge's allegations could be investigated," (Report at 7), on the grounds that the Regional Director's statement is not supported by the record and is factually and legally erroneous.

6. Warren Unilube excepts to the Regional Director's conclusion that, "[r]egarding witness statements presented by the Employer in support of this objection, even assuming that each witness would testify similarly in a Board affidavit or at a hearing, the testimony is mere speculation as to alleged effect of postponing the election and does not constitute a basis for setting aside the election," (Report at 8), on the grounds that the Regional Director's conclusion is not supported by the record and is factually and legally erroneous.

7. Warren Unilube excepts to the Regional Director's recommendations that "that the Board overrule and dismiss the Employer's Objections in its entirety" and "that the Board issue a Certification of Representative certifying the Petitioner as the exclusive representative for the purpose of collective bargaining for the employees in the bargaining unit described herein," on the grounds that the Regional Director's recommendations are not supported by the record and are without factual or legal basis.

#### **DOCUMENTARY EVIDENCE SUBMITTED IN SUPPORT OF OBJECTIONS**

In support of these objections, and pursuant to Section 102.69(g)(3) of the Board's Rules and Regulations, Warren Unilube appends the following copies of documentary evidence,

including copies of any affidavits, it has timely submitted to the Regional Director and which were not included in the Report:

1. October 7, 2010 letter from the Regional Director enclosing unfair labor practice charge Case Number 26-CA-23849, (A-1 to A-4);

2. October 21, 2010 email from Bill Hearne, attorney for the National Labor Relations Board Region 26, attaching an October 21, 2010 letter from Mr. Hearne requesting evidence from Warren Unilube related to unfair labor practice charge Case Number 26-CA-23849, (A-5 to A-7);

3. December 30, 2010 letter from the Regional Director dismissing unfair labor practice charge Case Number 26-CA-23849 "because there is insufficient evidence to establish a violation of the Act," (A-8 to A-10);

4. November 23, 2010 letter from counsel for Warren Unilube providing evidence in support of Warren Unilube's Objections to Conduct Affecting Results of Election, including six (6) exhibits, (A-11 to A-88):

a. Exhibit 1 – Warren Unilube's Objections to Conduct Affecting Results of Election, (A-24 to A-27);

b. Exhibit 2 - Warren Unilube's position statement in response to unfair labor practice charge Case Number 26-CA-23849, including three (3) exhibits, (A-28 to A-79):

i. Exhibit A – October 6, 2010 editorial published in Crittenden County Times, (A-34);

ii. Exhibit B – Declarations of Warren Unilube's President, Plant Manager, and every supervisor and manager of Warren Unilube at the facility at issue, (A-35 to A-78); and



iii. Exhibit C – October 7, 2010 Memorandum from Warren Unilube's President, (A-79);

c. Exhibit 3 – Declaration of Lee Mosby, Warren Unilube Production Supervisor, (A-80 to A-82);

d. Exhibit 4 – Declaration of Joe Griffin, Warren Unilube Production Supervisor, (A-83 to A-84);

e. Exhibit 5 – Declaration of Melvin Saddler, Warren Unilube Quality Assurance Inspector (hourly employee), (A-85 to A-86); and

f. Exhibit 6 – Declaration of James Mengarelli, Warren Unilube Shipping Supervisor, (A-87 to A-88);

5. November 24, 2010 letter from counsel for Warren Unilube providing evidence in support of Warren Unilube's Objections to Conduct Affecting Results of Election, including two (2) additional Declarations, (A-89 to A-93):

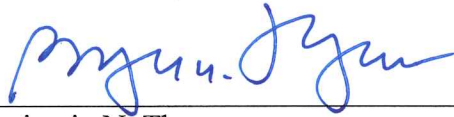
a. Declaration of Henry Driver, Warren Unilube lead blender (hourly employee), (A-90 to A-91); and

b. Declaration of Cordedro Banks, Warren Unilube blow molding department employee (hourly employee), (A-92 to A-93).

### **CONCLUSION**

The grounds for each exception, and the documents relied upon in support of each exception are more fully outlined in Employer Warren Unilube, Inc.'s Brief in Support of Exceptions to Report on Objections, which is filed contemporaneously with these Exceptions.

Respectfully submitted this 21st day of January, 2011.



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Benjamin N. Thompson

Jennifer M. Miller

J. Kellam Warren

Wyrick Robbins Yates & Ponton LLP

Post Office Drawer 17803

Raleigh, NC 27619

Telephone: (919) 781-4000

Facsimile: (919) 781-4865

Frederick J. Lewis

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

6410 Poplar Avenue, Suite 300

Memphis, TN 38119

Telephone: (901) 766-4304

Facsimile: (901) 767-7411

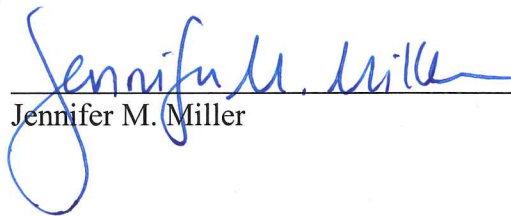
**CERTIFICATE OF SERVICE**

The undersigned certifies that she served a true and accurate copy of the foregoing upon the following by the method indicated:

William R. Yarborough, Acting Regional Director  
National Labor Relations Board, Region 26  
The Brinkley Plaza Building, Suite 350  
Memphis, Tennessee 38103  
***Via electronic mail William.Yarbrough@nlrb.gov***  
***Original via Federal Express, postage prepaid***

Samuel Morris, Esq.  
Godwin, Morris, Laurenzi & Bloomfield, P.C.  
50 North Front Street, Suite 800  
Memphis, Tennessee 38103  
***Via electronic mail SMorris@gmlblaw.com***  
***Original via Federal Express, postage prepaid***

This the 21st day of January, 2011.

  
\_\_\_\_\_  
Jennifer M. Miller



United States Government  
NATIONAL LABOR RELATIONS BOARD  
Region 26  
80 Monroe Avenue -- Suite 350  
Memphis, TN 38103-2416

Agency website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: 901-544-0018  
Facsimile: 901-544-0008

October 7, 2010

Mr Rusty Brown  
Warren Unilube Company  
1200 South 8th Street  
West Memphis, AR 72301

Case Name: Warren Unilube Company  
Case No : 26-CA-23849

Dear Mr Brown:

This is to inform you that a charge, a copy of which is enclosed, was filed alleging that Warren Unilube Company has violated the National Labor Relations Act. This charge will be investigated by Field Attorney William T. Hearne whose telephone number is (901)544-0028 and whose E-mail address is [William.Hearne@nlrb.gov](mailto:William.Hearne@nlrb.gov). The agent's supervisor is Rosalind E. Eddins, (901)544-0026, [Rosalind.Eddins@nlrb.gov](mailto:Rosalind.Eddins@nlrb.gov). Please note that the agent may be unable to access E-mails when the agent is away from the office. For that reason, you are encouraged to submit all your evidence to the agent through the Agency's E-Filing system, described below. On all correspondence regarding this charge, please include the case name and number indicated above.

**FILING DOCUMENTS WITH REGIONAL OFFICES:** The Agency is moving toward a fully electronic records system. To facilitate this important initiative, the Agency strongly urges all parties to submit documents and other materials (except unfair labor practice charges and representation petitions) to Regional Offices through the Agency's E-Filing system on its website: <http://www.nlr.gov>. (See Attachment to this letter for instructions). Of course, the Agency will continue to accept timely filed paper documents.

Procedures: If you have an E-mail address, please provide that address to the agent in order to expedite our communication with you.

The enclosed Form NLRB 4541 briefly explains the procedures followed in processing unfair labor practice charges. Customer service standards concerning the processing of unfair labor practice cases are available upon request from the Regional Office or by clicking the Public Notices button on the Agency's website, [www.nlr.gov](http://www.nlr.gov).

Presentation of Your Evidence: Please promptly submit to the Board agent the enclosed commerce questionnaire and a full and complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge. Thereafter, if the Board agent solicits relevant evidence from you or your counsel, I request and strongly urge you or your counsel to promptly present to the Board agent any and all evidence relevant to the investigation. We can provide assistance for persons with limited English proficiency. Please let us know as soon as possible if you would like such assistance.

October 7, 2010

It is my view that a refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily. Full and complete cooperation includes, where relevant, timely providing all material witnesses under your control to a Board agent so that witnesses' statements can be reduced to affidavit form, and providing all relevant documentary evidence requested by the Board agent. The submission of a position letter or memorandum, or the submission of affidavits not taken by a Board agent, does not constitute full and complete cooperation.

Please be advised that we cannot accept any limitations on the use of any evidence or position statements that are provided to the Agency. Thus any claim of confidentiality cannot be honored except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. In this regard, we are required by the Federal Records Act to keep copies of documents used in furtherance of our investigation for some period of years after a case closes. Further, we may be required by the Freedom of Information Act to disclose such records upon request, absent some applicable exemption such as those that protect confidential financial information or personal privacy interests (e.g., Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4)). Accordingly, we will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the foregoing laws, regulations and policies.

Right to Representation: Attention is called to your right, and the right of any party, to be represented by an attorney or other representative in any proceeding before the National Labor Relations Board and the courts. If you wish to have a representative appear on your behalf, please have your attorney or other representative complete the enclosed Form NLRB-4701, Notice of Appearance, and forward it to the respective Regional Office as soon as a representative is chosen.

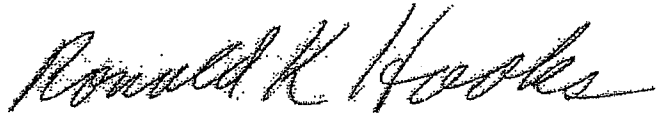
If your representative is an attorney, the attorney will receive exclusive service of all documents, except that you and your attorney will both receive those documents described in Casehandling Manual, Part One, Unfair Labor Practice Proceedings, Section 11842.3, available on the Agency's website [www.nlrb.gov](http://www.nlrb.gov). However, your attorney may consent to have additional documents or correspondence served on you by making the appropriate designation on Form NLRB-4701, Notice of Appearance. If your representative is not an attorney, you and your representative may receive copies of all documents and correspondence.

Freedom of Information Act: Under the Freedom of Information Act, unfair labor practice charges are subject to prompt disclosure to members of the public upon request. In this regard, you may have received a solicitation by organizations or persons who have obtained public information concerning these matters and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any "inside

October 7, 2010

knowledge" or favored relationship with the National Labor Relations Board; their information regarding these matters is only that which must be made available to any member of the public.

Very truly yours,

A handwritten signature in cursive script, reading "Ronald K. Hooks". The signature is written in dark ink and is positioned above the printed name and title.

Ronald K. Hooks  
Regional Director

Enclosures

clh

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE	
Case 26-CA-23849	Date Filed 10/7/2010

## INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Warren Unilube Company		b. Tel. No. 870.400.3053
		c. Cell No.
		f. Fax No. 870.732.7832
d. Address (Street, city, state, and ZIP code) 1200 South 8th Street West Memphis, AR 72301	e. Employer Representative Rusty Brown	g. e-Mail
		h. Number of workers employed 135
i. Type of Establishment (factory, mine, wholesaler, etc.) Factory	j. Identify principal product or service Refined Motor Oil	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

## 2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since on or about October 6, 2010, the Employer, by its officers, agents, and representatives, has threatened and coerced its employees, in violation of Section 7 of the Act, by threatening to close the facility if the union is voted in.

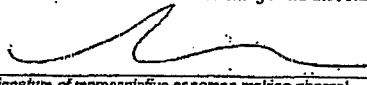
## 3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Brotherhood of Teamsters Local 667

4a. Address (Street and number, city, state, and ZIP code) 796 East Brooks Road Memphis, TN 38116	4b. Tel. No. 901.396.5334
	4c. Cell No.
	4d. Fax No. 901.396.5338
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Brotherhood of Teamsters	

## 6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By  Samuel Morris, Attorney  
(signature of representative or person making charge) (Print type name and title or office, if any)

50 N. Front Street, Suite 800, Memphis, TN 38103

10/07/10

Address

(date)

Tel No 901 528 1702

Office, if any, Cell No

Fax No. 901 528 0246

e-Mail

smorris@gmail.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**Benjamin N. Thompson**

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**From:** Hearne, William T. [William.Hearne@nrlb.gov]  
**Sent:** Thursday, October 21, 2010 3:47 PM  
**To:** Benjamin N. Thompson; 'fred.lewis@ogletreedeakins.com'  
**Subject:** Warren Unilube 26-CA-23849  
**Attachments:** LTR.26-CA-23849.Letter Requesting Evidence - 10-21-10.pdf

Dear Mr. Thompson and Mr. Lewis:

Attached is our letter requesting evidence for this investigation. If you have any questions about the letter, please let me know.

I also left a message with Mr. Lewis today to inform you that the Union has filed a new request to proceed to election in Case 26-RC-8616. I need to speak with you to make new election arrangements, provided that there are no new issues which would necessitate a pre-election hearing.

Very Truly Yours,

Bill Hearne  
Attorney  
National Labor Relations Board  
Region 26  
80 Monroe Ave., Ste. 350  
Memphis, TN 38103-2416

Phone: (901) 544-0028  
Fax: (901) 544-0008





United States Government  
NATIONAL LABOR RELATIONS BOARD

Region 26

80 Monroe Avenue – Suite 350

Memphis, TN 38103-2416

Telephone: (901)544-0028

Facsimile: (901) 544-0008

October 21, 2010

Mr. Benjamin N. Thompson  
Attorney  
Wyrick Robbins Yates & Ponton  
The Summit  
4101 Lake Boone Trail, Suite 300  
Raleigh, NC 27607

Re: Warren Unilube Company  
Case 26-CA-23849

Dear Mr. Thompson:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before **Friday, October 29, 2010** with regard to certain allegations in this case.

Allegations: The allegations for which I am seeking your evidence are as follows:

- On or about October 6, 2010, the Employer threatened and coerced its employees by threatening to close the facility if the Teamsters Local 667 was voted in as collective bargaining representative. This allegation specifically involves statements published in an editorial in the October 6, 2010 edition of the Crittenden County Times. Any response to our request for evidence should address whether any supervisor or agent of the Employer had any communications, whether written or verbal, with any publisher, editor, writer or staff member of the Crittenden County Times concerning the union certification election scheduled for October 8, 2010.

Board Affidavits: I am requesting to take affidavits from any individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives, who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge.

Date for Submitting Evidence: In order to resolve this matter as expeditiously as possible, you are requested to present your evidence in this matter by **Friday, October**

October 21, 2010

**29, 2010.** If I have not received all your evidence by that time or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (901)544-0028 or e-mail William.Hearne@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,



William T. Hearne  
Field Attorney

CC: Mr. Frederick J. Lewis  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
International Place, Tower II  
6410 Poplar Avenue, Suite 300  
Memphis, TN 38119



United States Government  
NATIONAL LABOR RELATIONS BOARD

Region 26  
80 Monroe Avenue – Suite 350  
Memphis, TN 38103-2416

Telephone: (901) 544-0018  
Facsimile: (901) 544-0008  
Website: [www.nlrb.gov](http://www.nlrb.gov)

December 30, 2010

Mr. Samuel Morris, Attorney  
Godwin, Morris, Laurenzi  
& Bloomfield, P.C.  
50 N. Front St., Suite 800  
Memphis, TN 38103

Re: Warren Unilube Company  
Case 26-CA-23849

Dear Mr. Morris:

The Region has carefully investigated and considered your charge against Warren Unilube Company alleging violations under Section 8 of the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have concluded that further proceedings are not warranted because there is insufficient evidence to establish a violation of the Act, and I am dismissing your charge.

**Your Right to Appeal:** The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the GENERAL COUNSEL of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, you are encouraged to submit a complete statement setting forth the facts and reasons why you believe that the decision to dismiss your charge was incorrect.

The appeal may be filed by regular mail addressed to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14<sup>th</sup> Street, N.W., Washington D.C. 20570-0001. A copy of the appeal should also be sent to the Regional Director.

**Means of Filing:** An appeal also may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax. To file an appeal electronically, go to the Agency's website at [www.nlrb.gov](http://www.nlrb.gov), click on **E-GOV**, select "**E-filing**" and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14<sup>th</sup> Street, N.W., Washington, DC 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date and Time:** The appeal is due on **January 13, 2011**. If you file the appeal electronically, it will be considered timely filed if the transmission of the entire document through the Agency's website is accomplished **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the General Counsel in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than **January 12, 2011**.

**Extension of Time to File Appeal:** Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. To file electronically, go to [www.nlrb.gov](http://www.nlrb.gov),

December 30, 2010

click on **E-GOV**, select **E-Filing**, and follow the detailed instructions. The fax number is (202) 273-4283. A request for an extension of time to file an appeal **must be received on or before the original appeal due date**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

**Confidentiality/Privilege:** Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and (7)(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

**Notice to Other Parties of the Appeal:** You should notify the other parties to the case that an appeal has been filed. Therefore, at the time the appeal is sent to the General Counsel, please complete the enclosed Appeal Form (NLRB-4767) and send one copy of the form to all parties whose names and addresses are set forth in this letter.

Very truly yours,



Ronald K. Hooks  
Regional Director

Enclosures

cc: (Without Enclosures)

General Counsel  
National Labor Relations Board  
Office of Appeals, Room 8820  
Franklin Court Building  
1099 14th Street, N.W.  
Washington, DC 20570

Mr. Henry Perry  
Secretary/Treasurer  
Teamsters Local Union No. 667  
796 East Brooks Road  
Memphis, TN 38116

Mr. Rusty Brown  
Warren Unilube Company  
1200 South 8th Street  
West Memphis, AR 72301

Mr. Frederick J. Lewis, Attorney  
Ogletree, Deakins, Nash, Smoak &  
Stewart, P.C.  
International Place, Tower II,  
6410 Poplar Avenue, Suite 300  
Memphis, TN 38119

✓ Mr. Benjamin N. Thompson, Attorney  
Wyrick Robbins Yates & Ponton  
The Summit  
4101 Lake Boone Trail, Suite 300  
Raleigh, NC 27607

gt



Wyrick Robbins Yates & Ponton LLP  
ATTORNEYS AT LAW

4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607

PO Drawer 17803, Raleigh, NC 27619

P: 919.781.4000 F: 919.781.4865 www.wyrick.com

BENJAMIN N. THOMPSON  
bthompson@wyrick.com

November 23, 2010

**VIA FACSIMILE (901.544.0008)**  
**ORIGINAL VIA FEDERAL EXPRESS**

Ronald K. Hooks, Regional Director  
National Labor Relations Board, Region 26  
80 Monroe Avenue, Suite 350  
Memphis, Tennessee 38103-2416

Re: *Warren Unilube, Inc.*  
*Case No. 26-RC-8616*

Dear Mr. Hooks:

As requested by your November 12, 2010 letter regarding the above-referenced case, on behalf of Warren Unilube, Inc. ("Warren Unilube" or the "Company"), we provide you with the following specific evidence supporting each of Warren Unilube's Objections to Conduct Affecting Results of Election, which were filed on November 12, 2010 and which are attached hereto as **Exhibit 1** and incorporated herein by reference. This submission is timely filed pursuant to the November 16, 2010 electronic mail from William Yarbrough, Deputy Regional Director.

**OBJECTION No. 1:**

This objection was based upon the fact that the unjustified delay in the election (which occurred as a result of the utterly baseless unfair labor practice charge (Case No. 26-CA-23849) filed by the International Brotherhood of Teamsters Local 667 (the "Union") regarding an Editorial printed in the local newspaper) impacted the results of the election and destroyed the laboratory conditions necessary for a valid election.

**List of Witnesses by Name and Title Within the Organization and a  
Description of the Testimony to Be Offered by Each**

In support of the utter baselessness of the Union's unfair labor practice charge regarding the Editorial published in the local newspaper, Warren Unilube relies upon, *inter alia*, the information submitted by Warren Unilube in response to that unfair labor practice charge. A copy of Warren Unilube's position statement in response to that charge (including the Declarations attached thereto, which provide a description of the testimony that each declarant would offer regarding this issue) is attached hereto as **Exhibit 2** and incorporated herein by reference.

That the Union filed its baseless unfair labor practice charge on the day before the scheduled election solely for the purpose of improperly and prejudicially delaying the election from its originally scheduled October 8, 2010 date is further supported by the fact that, on or about October 21, 2010 – *before the Region had even requested evidence from Warren Unilube in response to that charge* – the Union requested that the election proceed.

Also in support of this objection, Warren Unilube submits the following witnesses:

- a) **Lee Mosby, Production Supervisor at Warren Unilube's 8th Street facility.** Mr. Mosby is expected to testify that employees were generally unhappy with the election being delayed and just wanted it over with. Mr. Mosby is also expected to testify that, in his opinion, the delay in the election impacted the results of the election and that, had the election been held on October 8, 2010 as originally scheduled, the Union would not have been voted in. Mr. Mosby is also expected to testify that employees believed that the delay in the election was because the Union needed more time to campaign and that the Union increased its pressure on employees and its campaign

efforts during the delay. Mr. Mosby is also expected to testify that he heard that employees were saying that they did not want to and were not going to join the Union, but that they were going to vote for the Union for the employees who did want it. The Declaration of Lee Mosby, attached hereto as Exhibit 3 and incorporated herein by reference, further outlines the testimony to be offered by Mr. Mosby.

- b) **Joe Griffin, Production Supervisor at Warren Unilube's 8th Street facility.** Mr. Griffin is expected to testify that some employees believed that the Company had placed the Editorial in the newspaper so that the Union would file an unfair labor practice charge and the election would be delayed, because the Company wanted to delay the election. Mr. Griffin is also expected to testify that the majority of the employees wanted the election to be over in October and were upset by the delay. Mr. Griffin is also expected to testify that, before the election scheduled for October 8, 2010, he felt that the momentum was going in the Company's favor. Mr. Griffin is also expected to testify that he believed that the delay hurt the Company based on the fact that, during the delay, employees stopped speaking with him and the Union had more time to campaign and distribute propaganda. The Declaration of Joe Griffin, attached hereto as Exhibit 4 and incorporated herein by reference, further outlines the testimony to be offered by Mr. Griffin.
- c) **Henry Driver, lead blender at Warren Unilube's 8th Street facility.** Mr. Driver, an hourly employee who was eligible to vote in the November 5, 2010 election, is



expected to testify that he heard that the election was delayed because somebody went to the newspaper and was responsible for the newspaper printing something disrespecting the union and talking bad about the union. He is also expected to testify that he heard the Union filed an unfair labor practice charge with the National Labor Relations Board and that is why the election was delayed. Mr. Driver is also expected to testify that he is aware that the local newspaper published an Editorial about the union election at Warren Unilube but that he did not read the Editorial. He is also expected to testify that some of the employees said that the Company got the Editorial put in the paper because it was scared it was going to lose and was trying to get the election postponed. Other employees thought the Union had gotten the article in the paper. He heard a handful of employees say that the Union wanted the election delayed — that the pro-Union employees were behind the Editorial because the Editorial would make the election null and void and the Union would come in right away. People thought this because some of the information in the Editorial was the same information Rusty Brown (the company's Plant Manager) was saying at the meetings with the employees, so they thought that the employees were taking the information from Mr. Brown and giving it to the newspaper to make it look like it came from the Company. All employees at Warren Unilube, whether Union supporters or not, were ready to get the election behind them and were unhappy that it was delayed. Based on his discussions with other employees, he does not think the Union would have been voted in in the October election. In October, he thought that there were enough people voting against the Union that the Union would not win. In his opinion, the Union

needed more time to convince employees to vote in their favor. Warren Unilube expects to submit the Declaration of Henry Driver, consistent with the foregoing, in further support of its objections. However, because of Mr. Driver's work schedule, the undersigned was unable to obtain a signed copy of Mr. Driver's Declaration prior to submitting this statement. Warren Unilube will promptly supplement this statement with the executed Declaration of Mr. Driver as soon as the same is received, which the undersigned anticipates may be as early as November 24.

- d) **Melvin Saddler, Quality Assurance Inspector at Warren Unilube's 8th Street facility.** Mr. Saddler, an hourly employee who was eligible to vote in the November 5, 2010 election, is expected to testify that the employees seemed to believe that the Company was behind the Editorial being published. Mr. Saddler is further expected to testify that, after the election was delayed, about half of the employees that he spoke to said that the National Labor Relations Board had stepped in and delayed the election because the Company had put the Editorial in the newspaper. Mr. Saddler is further expected to testify that all of the employees that he knows wanted to get the election over and done with. Mr. Saddler is also expected to testify that he thinks that the delay in the election impacted the election results and that putting the election off for a month gave the Union more time to win the support of the employees. Mr. Saddler is also expected to testify that, before the November election, he heard comments all the time from other employees that they were not going to join the Union but that they were going to vote for the Union so others can join it. The Declaration of Melvin Saddler,

attached here to as **Exhibit 5** and incorporated herein by reference, further outlines the testimony to be offered by Mr. Saddler.

**e) James Mengarelli, Shipping Supervisor at Warren Unilube's 8th Street facility.**

Mr. Mengarelli is expected to testify that, immediately before the election scheduled for October 8, 2010, he had a strong feeling that the Union was not going to be voted in but that, as the November 5, 2010 election approached, he felt that some votes were swayed in favor of the Union. Mr. Mengarelli will also testify that, during the delay between the October and November elections, he heard a lot that employees were being told that they should vote the Union in even if they did not want to join the Union. Mr. Mengarelli is also expected to testify that, even after the Company issued a memo disavowing the statements made in the Editorial, employees still talked about the Editorial and said that someone from the Company knew someone at the newspaper and that is how the Editorial got printed. Mr. Mengarelli will also testify that a lot of the employees were upset that the election did not happen in October as scheduled and that he heard an employee say to another that we need to let the election go through and get it behind us whether we win or lose. The Declaration of James Mengarelli, attached here to as **Exhibit 6** and incorporated herein by reference, further outlines the testimony to be offered by Mr. Mengarelli.

**f) Cordedro Banks, blow molding department.** Mr. Banks, an hourly employee eligible to vote in the November 5, 2010 election, is expected to testify that he thinks

that the delay in the election made a big difference in the outcome of the election. He will testify that, during the delay, a lot of employees changed their minds to vote for the Union and that, because of the delay, the Union had more chances to talk to the employees and get them to vote for the Union. Mr. Banks is also expected to testify that, if the election had not been delayed, he thinks that there would have been a different result and the Union would not have been voted in. Mr. Banks will testify that his opinion is based on his discussions with other employees and what those employees told him before the scheduled election dates. Mr. Banks will testify that he thinks a lot of people's minds were made up before the October election to vote against the Union but that they changed their votes after the election was delayed. Mr. Banks will testify that he knows of more than 20 employees whose minds were made up to vote against the Union before the October election and that by the time of the November election, those employees were talking as if they were leaning in favor of the Union. Mr. Banks will testify that he was upset by the delay in the election and that many other employees were also upset about the delay. Mr. Banks will testify that he does not know why the election was delayed but that he heard there was something about a lawsuit – that the company was going to close the plant if the Union came in and someone had leaked that to the newspaper and the Union had filed a lawsuit or was going to file a lawsuit. He will testify that he did not think that the election should have been rescheduled. Warren Unilube expects to submit the Declaration of Cordedro Banks, consistent with the foregoing, in further support of its objections. However, because of Mr. Banks' work schedule, the undersigned was unable to obtain a signed

copy of Mr. Banks' Declaration prior to submitting this statement. Warren Unilube will promptly supplement this statement with the executed Declaration of Mr. Banks as soon as the same is received, which the undersigned anticipates may be as early as November 24.

**OBJECTION No. 2:**

This objection was based on the fact that the Union had spread false rumors that Warren Unilube had a list of employees supporting the Union and that Warren Unilube would terminate those employees if the company lost the election.

**List of Witnesses by Name and Title Within the Organization and a  
Description of the Testimony to Be Offered by Each:**

- a) **Lee Mosby, Production Supervisor at Warren Unilube's 8th Street facility.** Mr. Mosby is expected to testify that during the recent campaign that led up to the Union election on November 5, 2010, he recalls supervisors making comments that employees were worried about retaliation from the Company. He will also testify that employees made comments to him that they were concerned about retaliation by the Company. For example, an employee said that he hoped that the Company would not retaliate against employees who supported the Union. Mr. Mosby will testify that these concerns persisted despite the fact that he consistently assured employees that nothing would happen to the Union supporters. The Declaration of Lee Mosby, attached here to as **Exhibit 3** and incorporated herein by reference, further outlines the testimony to be offered by Mr. Mosby.

- b) **Henry Driver, lead blender at Warren Unilube's 8th Street facility.** Mr. Driver, an hourly employee who was eligible to vote in the November 5, 2010 election, is expected to testify that he heard a rumor from a lot of people that Warren Unilube had a list of everyone who signed the petition to have the Union election, that the Company President had it in his desk and that the Company was going to fire all of those people if the Union came in. Warren Unilube expects to submit the Declaration of Henry Driver, consistent with the foregoing, in further support of its objections. However, because of Mr. Driver's work schedule, the undersigned was unable to obtain a signed copy of Mr. Driver's Declaration prior to submitting this statement. Warren Unilube will promptly supplement this statement with the executed Declaration of Mr. Driver as soon as the same is received, which the undersigned anticipates may be as early as November 24.
- c) **Melvin Saddler, Quality Assurance Inspector at Warren Unilube's 8th Street facility.** Mr. Saddler, an hourly employee who was eligible to vote in the November 5, 2010 election, is expected to testify that he heard rumors that Warren Unilube had a list of the people who signed cards and that the Company would terminate them. He is further expected to testify that several employees said that, if we did not elect a Union, Warren Unilube was going to fire all of those employees. The Declaration of Melvin Saddler, attached here to as Exhibit 5 and incorporated herein by reference, further outlines the testimony to be offered by Mr. Saddler.

**d) James Mengarelli, Shipping Supervisor at Warren Unilube's 8th Street facility.**

Mr. Mengarelli is expected to testify that he knew that some of the employees believed or had heard rumors that certain people would be fired after the election. He is also expected to testify that one employee asked him before the election, "Who are y'all going to get rid of when this is all over?" The Declaration of James Mengarelli, attached here to as Exhibit 6 and incorporated herein by reference, further outlines the testimony to be offered by Mr. Mengarelli.

**OBJECTION No. 3:**

This objection as based on the fact that the Union had spread false rumors that Warren Unilube was threatening plant closure.

**List of Witnesses by Name and Title Within the Organization and a  
Description of the Testimony to Be Offered by Each:**

For information supporting this objection, see generally the information and witnesses identified in support of Objection No. 1. Also in support of this objection, Warren Unilube submits the following witnesses:

**a) Lee Mosby, Production Supervisor at Warren Unilube's 8th Street facility. Mr.**

Mosby is expected to testify that he heard rumors that the plant would close if the Union were voted in. For example, Mr. Mosby will testify that one employee who had been a member of the Union before said "that man" (meaning Irvin Warren, the owner of Warren Unilube) is probably going to close this place if the Union comes in. The

Declaration of Lee Mosby, attached here to as Exhibit 3 and incorporated herein by reference, further outlines the testimony to be offered by Mr. Mosby.

b) **Joe Griffin, Production Supervisor at Warren Unilube's 8th Street facility.** Mr.

Griffin is expected to testify that, before the election, he heard rumors circulating among the employees that the plant would close if the Union was voted in. That rumor was widespread throughout the election process even though Rusty Brown, Warren Unilube's Plant Manager, kept reiterating that the plant would not close. The Declaration of Joe Griffin, attached here to as Exhibit 4 and incorporated herein by reference, further outlines the testimony to be offered by Mr. Griffin.

c) **Cordedro Banks, blow molding department.** Mr. Banks, an hourly employee eligible to vote in the November 5, 2010 election, is expected to testify that, after the Editorial came out, he heard rumors that the Company was going to close the plant if the Union came in. Warren Unilube expects to submit the Declaration of Cordedro Banks, consistent with the foregoing, in further support of its objections. However, because of Mr. Banks' work schedule, the undersigned was unable to obtain a signed copy of Mr. Banks' Declaration prior to submitting this statement. Warren Unilube will promptly supplement this statement with the executed Declaration of Mr. Banks as soon as the same is received, which the undersigned anticipates may be as early as November 24.



**OBJECTION No. 4:**

This objection was based on the Union's general intimidation, restraint and/or coercion of Eligible Employees.

**List of Witnesses by Name and Title Within the Organization and a  
Description of the Testimony to Be Offered by Each:**

See witnesses listed in support of Objections 1 through 3, above, and the description of the testimony to be offered by those witnesses set forth above.

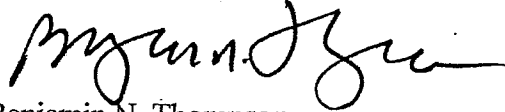
**CONCLUSION**

We trust that the information contained herein, as well as in Warren Unilube's Objections to Conduct Affecting Results of Election, demonstrates to the Regional Director that the Union and/or its supporters engaged in conduct that unquestionably affected the results of the election held on November 5, 2010 and that that election should be set aside. Alternatively, it is respectfully submitted that the information submitted in support of the Company's objections requires that the Region set a hearing for the purposes of allowing the Company to further demonstrate the merits of the objections filed.

Thank you for your attention to this important matter, and please do not hesitate to let us know should you have any questions or need additional information.

Sincerely,

WYRICK ROBBINS YATES & PONTON LLP



Benjamin N. Thompson  
Jennifer M. Miller  
J. Kellam Warren

cc: William R. Yarbrough, Deputy Regional Director (*via electronic mail only; with attachments William.Yarbrough@nlrb.gov*)

William T. Hearne, Field Attorney (*via electronic mail only; with attachments William.Hearne@nlrb.gov*)

Frederick J. Lewis, Esq. (*via electronic mail only; with attachments Fred.Lewis@ogletreedeakins.com*)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Employer,

and

Case No. 26-RC-8616

TEAMSTERS LOCAL 667,

Petitioner

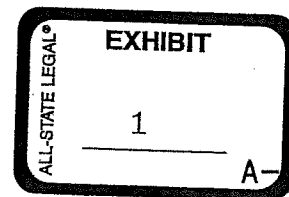
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**EMPLOYER'S OBJECTIONS TO CONDUCT  
AFFECTING RESULTS OF ELECTION**

TO THE HONORABLE WILLIAM R. YARBROUGH, ACTING REGIONAL  
DIRECTOR:

Pursuant to Rule 102.69(a) of the Rules and Regulations of the National Labor Relations Board, Warren Unilube, Inc. ("the Employer") files these Objections to the conduct of the election, and to conduct affecting the results of the election, conducted by the NLRB at the Employer's West Memphis, Arkansas facility on November 5, 2010.

OBJECTION No. 1: The election was originally scheduled to be held on October 8, 2010. However, the election was delayed until November 5, 2010 because the Union filed a baseless charge against the Employer falsely accusing the Employer of threatening to close the facility if the union was voted in, in violation of Section 7 of the National Labor Relations Act (the "Act"). Specifically, and without any basis, the Union accused the Employer of being responsible for an editorial published in the October 6, 2010 Crittenden County Times, a local newspaper (the "Editorial"). In fact, the Employer was not responsible for the Editorial and nonetheless filed a disclaimer of the Editorial as soon as it was discovered. Because the Union



had absolutely no basis whatsoever for this charge, and because the Employer immediately published a disclaimer even though it had no responsibility for the Editorial, the election should have proceeded as scheduled on October 5, 2010. Because in response to the Union's filing of this charge the NLRB delayed the election, and because the Union failed to waive the bar to the election created by its filing of the baseless charge, the election was delayed and did not proceed as scheduled on October 5, 2010, much to the anger and dismay of employees eligible to vote in the election ("Eligible Employees"). Furthermore, delaying the election under these circumstances unfairly suggested to Eligible Employees that the Employer had in fact violated the Act and threatened employees with plant closure, when there was no basis for such a reckless charge. The Employer was further prejudiced on the morning of the rescheduled election, when at the morning Pre-Election Conference at the Employer's 8<sup>th</sup> Street facility, the Union's counsel in the presence of employee observers and perhaps other employees made a comment again suggesting the Employer was responsible for the Editorial. Through their actions, the NLRB and the Union destroyed the laboratory conditions necessary for a valid election.

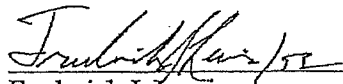
OBJECTION NO. 2: The Union, by its officers, agents, and/or others, during the critical period of the election campaign, spread false rumors that the Employer had a list of employees supporting the Union and would terminate them if a majority of employees voted against the Union in the election. This interfered with the free and unfettered choice of employees in the election.

OBJECTION NO. 3: The Union, by its officers, agents, and/or others, during the critical period of the election campaign, spread false rumors that the Employer was threatening plant closure. This created such an atmosphere of fear and confusion that the holding of a free choice election was precluded.

OBJECTION NO. 4: By other acts of conduct, the Union, by its officers, agents, and/or others, during the critical period of the election campaign, intimidated, restrained, and/or coerced Eligible Employees rendering their free choice in the election impossible.

HEARING REQUESTED: The Employer requests a hearing on the genuine issues of material fact raised by these Objections, which will be supported by affidavits which will be timely submitted to the Regional Director in accordance with the Board's Rules and Regulations.

Respectfully submitted,



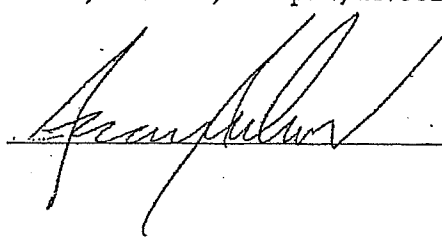
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cc: William T. Hearne, Esq. (via facsimile)

### CERTIFICATE OF SERVICE

The undersigned certifies that, pursuant to NLRB Rules and Regulations Rule 102.114(f), on this 12th day of November, 2010, prior to the close of the Regional Office's business hours, he caused one original and five copies of the within Objections to be served on the Acting Regional Director of the NLRB Region 26 via hand delivery to the National Labor Relations Board, ATTN. Mr. William R. Yarborough, Acting Regional Director, The Brinkley Plaza Bldg., Suite 35080 Monroe Avenue, Memphis, TN 38103-2481, and one copy via facsimile transmission to (901) 544-0008, and to the Petitioner, attention to Mr. Samuel Morris, Esq., Godwin, Morris, Laurenzi & Bloomfield, P.C., 50 North Front Street, Suite 800, Memphis, TN 38103, and via facsimile transmission to 901-528-0246.

A handwritten signature in dark ink, appearing to read "Samuel Morris", is written over a horizontal line.



Wyrick Robbins Yates & Ponton LLP

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BENJAMIN N. THOMPSON  
bthompson@wyrick.com

October 29, 2010

**VIA ELECTRONIC MAIL William.Hearne@nlrb.gov**  
**ORIGINAL VIA FEDERAL EXPRESS**

Mr. William T. Hearne, Field Attorney  
National Labor Relations Board, Region 26  
80 Monroe Avenue, Suite 350  
Memphis, Tennessee 38103-2481

Re: **Warren Unilube, Inc. - Position Statement**  
**26-CA-23849**

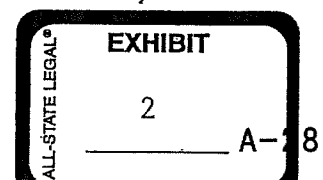
Dear Mr. Hearne:

As you know, this law firm represents Warren Unilube, Inc. ("Warren Unilube"). This letter and any attached exhibits constitute Warren Unilube's position statement and response to the above-referenced unfair labor practice charge filed by the International Brotherhood of Teamsters Local 667 (the "Union"). As explained in detail below, there is no factual or legal merit to the charge filed by the Union, and Warren Unilube respectfully requests that the charge be dismissed by the Board.

The Union's charge alleges that Warren Unilube "has threatened and coerced its employees, in violation of Section 7 of the Act, by threatening to close the facility if the union is voted in." Based on your October 21, 2010 letter, we understand that this allegation is based on an editorial that was published in the October 6, 2010 Crittenden County Times, a local newspaper (the "Editorial"). As discussed more fully below, Warren Unilube denies that it is in any way responsible for the Editorial, that the publishing of the Editorial is in any way attributable to Warren Unilube, or that the newspaper's unilateral decision to publish the Editorial constitutes an unfair labor practice by Warren Unilube.

**Summary of Facts**

On October 6, 2010, the Editorial was published in the Crittenden County Times, a local newspaper. A true and accurate copy of the Editorial is attached hereto as Exhibit A. The Editorial generally expressed the newspaper editor's views that unions are no longer necessary or relevant. As relevant to the pending charge, in the Editorial, the editor stated,



Mr. William T. Hearne, Field Attorney  
October 29, 2010  
Page 2

"From all we know, if this union succeeds this company's management could very easily close shop and cause every worker to loose [sic] their jobs."

Prior to the newspaper's publishing of the Editorial, Warren Unilube's President, Plant Manager, managers and supervisors (i.e., anyone authorized to act or speak on behalf of Warren Unilube) did not speak with anyone with the Crittenden County Time regarding any of the statements made in the Editorial, and none asked anyone to speak on their behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Indeed, no Warren Unilube President, Plant Manager, manager or supervisor was even aware that the Crittenden County Times intended to publish any information or commentary regarding the election prior to publication of the Editorial. Supporting this assertion are Declarations of Dale Wells, Warren Unilube's President; Rusty Brown, Warren Unilube's Plant Manager; and every manager and supervisor at Warren Unilube's facility in West Memphis, Arkansas (the "Declarations"). These Declarations, given pursuant to 28 U.S.C. § 1746 under penalty of perjury, are attached hereto as Exhibit B and are incorporated herein by reference.

Immediately upon learning that the Editorial had been published in the newspaper, Mr. Wells prepared a memorandum specifically disavowing and disputing the statements made by the newspaper editor in the Editorial (the "Memorandum"). Specifically, Mr. Wells stated (in part):

I understand that yesterday an editorial was included in the Opinion section of the Crittenden County Times, expressing the Newspaper's views on unions and about the upcoming election. The article raised the question of whether this plant would close in the event that Warren Unilube employees at this facility vote for the union on Friday. In response, **WE CAN SAY THIS . . . please disregard ALL rumors.** The future of this plant will be decided by the officers and directors of the company and **only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic.** Additionally, we want all of you to know that **Warren Unilube has no intent to close this plant no matter the outcome of this election.** We've said it before and we'll say it again: *you owe it to yourself and to your family to base your vote on the facts, not on rumors or speculation.*

(Emphasis added.) A true and accurate copy of the Memorandum is attached hereto as Exhibit C. The Memorandum was distributed to all employees at Warren Unilube's West Memphis facility that were eligible to vote in the upcoming election, and no Warren Unilube President, Plant Manager, manager or supervisor had any discussion with any potential bargaining unit member regarding the Editorial in which he or she indicated anything contrary to the Memorandum distributed by Mr. Wells. (See Ex. B (Declarations) at ¶¶ 5, 6.)



The Union then filed the instant unfair labor practice charge on the eve of the election. Because of the obvious meritlessness of the charge, Warren Unilube believes that the Union filed the charge only for the purpose of delaying the election.

*Response to Charge*

In certain limited circumstances, the actions of a third party may provide a basis for either party to object to the results of an election. Here, however, the Union filed its unfair labor practice charge regarding the newspaper's Editorial before the election and simply alleges – without a shred of evidence – that Warren Unilube is somehow responsible for the actions of the newspaper in publishing the Editorial. Under this scenario, the issues are (1) whether the newspaper is the agent of Warren Unilube such that the newspaper's unilateral conduct can be imputed to Warren Unilube, and, if so, (2) whether Warren Unilube sufficiently disavowed the newspaper's unilateral statements. See, e.g., NLRB v. General Metals Products Co., 410 F.2d 473, 476 (6th Cir. 1969) (finding that actions of a third party community member could be imputed to the employer if the employer was aware of the actions and made no effort to disavow those actions); Star Kist Samoa, Inc., 237 NLRB 238, 246 (1978) (finding that an employer could be liable for the actions of an anti-union group during an election campaign only if those actions are attributable to the employer and the employer did not sufficiently disavow those actions); Dean Indus., Inc., 162 NLRB 1078, 1092-93 (1967) (finding an employer was not liable for certain actions of community members where there was no evidence that the employer had knowledge of those actions and employer thus had no obligation to disavow them); Richlands Textile, Inc., 220 NLRB 615, 618 (1975) (finding an employer was liable for the actions of a member of the state House of Representatives only if the member was the agent of the employer or the employer did not disavow the member's actions and thus acquiesced and ratified those actions by silence).

Here, the newspaper is not the agent of Warren Unilube. There is not one shred of evidence that Warren Unilube initiated, procured, aided or participated in the preparation of the Editorial or its dissemination. See Richlands Textile, 220 NLRB at 618 (finding that member of state House of Representatives, who had sent an anti-union letter to employees, was not the agent of employer where the employer "did not initiate, procure, aid, or participate in the preparation of the letter or in its dissemination"). To the contrary, the Declarations submitted herewith (and made under penalty of perjury) confirm that Warren Unilube's President, Plant Manager, managers and supervisors (i.e., those people who could be authorized to speak on behalf of the company) did not have any discussions with the newspaper prior to the newspaper's publishing of the Editorial and were not even aware that the newspaper intended to publish the Editorial prior to its publishing. Under these circumstances, the newspaper simply cannot be deemed to be the agent of Warren Unilube. Cf. Henry I. Siegel Co., 172 NLRB 825 (1968) (finding that an employer was responsible for the Mayor's anti-union activities where the Mayor engaged in those activities "with the

Employer's knowledge, cooperative acquiescence, and exploitative approbation and ratification"); Dean Indus., 162 NLRB at 1093 (finding that an employer was liable for anti-union actions by townspeople where "the Company by the activities of its supervisors and other officials was engaged in a cooperative effort with the townspeople in the solicitation of the withdrawal letters").

Because the newspaper was not Warren Unilube's agent, Warren Unilube cannot be held responsible for the newspaper's unilateral decision to prepare and publish the Editorial – which it did without Warren Unilube's knowledge or participation. See Richlands Textile, 220 NLRB at 618 ("a respondent cannot be held responsible for statements by third parties who are not its agents").

In addition, Warren Unilube cannot be responsible for the newspaper's unilateral action in publishing the Editorial because, in any case, Warren Unilube sufficiently disavowed the statements made by the newspaper in the Editorial. Immediately after the Editorial was published, Dale Wells, Warren Unilube's President, issued the Memorandum to all employees at Warren Unilube's West Memphis facility that were eligible to vote in the upcoming election. The Memorandum (1) specifically confirmed that the newspaper had no authority to speak or act on behalf of Warren Unilube, by referencing the rumors published in the Editorial and then stating, "only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic;" and (2) specifically disavowed the statement in the Editorial that "From all we know, if this union succeeds this company's management could very easily close shop and cause every worker to loose [sic] their jobs" by unequivocally stating, "Warren Unilube has no intent to close this plant no matter the outcome of this election."

In cases where employers have been held responsible for the actions of a third party, the employer in all cases failed to sufficiently disavow the third party's actions. See, e.g., NLRB v. General Metals, 410 F.2d at 476 (finding that an employer was responsible for the actions of a third party where "the company knew of, approved, **and by its silence confirmed** the actions of" that third party) (emphasis added); Richlands Textile, 220 NLRB at 618-19 (finding that an employer was responsible for a state House of Representatives member's letter to the employees threatening that the plant would close if unionized because the employer learned that the letter had been sent but did not fulfill its obligation to "effectively repudiate to the employees the statement" made by the member, thus constituting the employer's "acceptance of, acquiescence in, and ratification of" the member's statement).

Even where the issue is not merely whether an employer should be liable for a third party's anti-union activities, but whether a third party's anti-union activities affected the ability to hold an unobjectionable election, the Board has held that disavowals similar to those given by Warren Unilube here were sufficient to render the election not objectionable. See, e.g.,

Claymore Manufacturing Co., 146 NLRB 1400, 1401-03 (1964); Electra Manufacturing Co., 148 NLRB 494, 497 (1964).

In Claymore, a local Pastor purportedly announced that "he had inside information that the Huntsville plant would move to Jasper, Arkansas if the Union came into it." Claymore, 146 NLRB at 1408. In response, the President of the company issued a letter to all employees stating, *inter alia*:

A number of rumors have been called to our attention . . . such as that the plant is about to be closed down or that the plant will be moved to some other town. We cannot keep up with all the rumors and gossip and cannot issue statements every day. WE CAN STAY THIS . . . please disregard ALL rumors. The future of this plant will be decided by the officers and directors of the company and *only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic.*

Id. at 1409.

The President subsequently mailed another letter to the employees which stated, "Regardless of rumors, it is our intention to try our level best to keep this plant going regardless of the outcome of this election." Id. After the union lost the election, the union filed objections based on *inter alia*, the threats by the Pastor that the plant would close. The Board, however, found no merit to the Union's objections and concluded that the company's letters constituted a sufficient disavowal of the Pastor's statements. Id. at 1402 1411.

Similarly, in Electra, an anti-union article and two anti-union editorials had been published in the local newspaper stating and/or implying that the employer's plant would close if the plant were unionized in an election. The day after the editorials were published, the company issued a leaflet stating that it had no intention of the leaving the town where the plant was located. The Board overruled the union's objections to the subsequent election, concluding that "we are satisfied that the Employer's specific public disavowals of any intention to relocate, coupled with the Petitioner's republication and distribution to employees on January 14 of such disavowals, tended to neutralize any atmosphere of fear and confusion."

As in Claymore and Electra, Warren Unilube immediately, unequivocally and sufficiently disavowed the unilateral statements made by the newspaper in the Editorial. Indeed, the language in Warren Unilube's Memorandum was partially based upon the disavowal language used in Claymore but was, if anything, even more unequivocal. While the company in Claymore stated that the company would "try our level best to keep this plant going regardless of the outcome of the election," Warren Unilube's President emphatically stated, "Warren Unilube has no intent to close this plant no matter the outcome of this

Mr. William T. Hearne, Field Attorney  
October 29, 2010  
Page 6

election." As such, the Memorandum constituted a sufficient disavowal of the Editorial's statements, and Warren Unilube thus cannot be held responsible for the unilateral acts of the newspaper in publishing that Editorial. Warren Unilube has thus committed no unfair labor practice.

Conclusion

It is evident that Warren Unilube has not violated the terms of the National Labor Relations Act, nor has Warren Unilube committed any unfair labor practices. Accordingly, Warren Unilube respectfully requests that the Board determine that there is no merit to the Union's charge, and that the charge be dismissed.

Thank you for your attention to this matter.

Sincerely,

WYRICK ROBBINS YATES & PONTON LLP



Benjamin N. Thompson  
J. Kellam Warren

cc: Frederick J. Lewis, Esq. (via electronic mail)

# Our View Union very bad idea for West Memphis

Let's face facts, the days when unions were good for the common worker have long since past, and there is certainly no place for union bully tactics in Arkansas, particularly right here in Crittenden County.

Long before there was the federal labor laws, wage and hour rules, and all the other government's workforce regulations unions played an a role in representing the "common" worker.

No longer are unions relevant, necessary or have any purpose whatsoever other than to destroy both business and industry. Perfect examples of this are evident in the demise of once the world's largest automobile manufacturer — General Motors Corporation and Chrysler Corporation. Just look at Detroit, Mich., today and see what unions have caused.

Unions in both the private and public sector — i.e. federal teachers union, postal union etc. — are destroying this country's ability to be competitive on a worldwide marketplace.

Unions are, in large part, to blame for the United States becoming dependent upon other countries for our manufacturing needs, food, apparel and appliances.

The clothes we wear aren't produced in America, the shoes we wear are made in another country, much of the vegetables, seafood and meat is imported. The televisions we buy aren't made here, nor are the appliances we depend upon every day manufactured in the United States.

As we've pointed out, much of this can be attributed to greedy union control that demands unrealistic salaries and benefits

from struggling businesses and industries. Unions in any community are a serious negative to economic development because when prospective business and industry looks to areas such as Crittenden County, West Memphis or Marion they want to know about union involvement before making a decision. We have learned just recently of efforts by Teamsters Local 667, Memphis, Tenn., of trying to take control of a major company right here in West Memphis.

We're told this Friday this union will try to take control of employees at this local West Memphis company, a move that may have dire consequences.

From all we know, if this union succeeds this company's management could very easily close shop and cause every worker to loose their jobs.

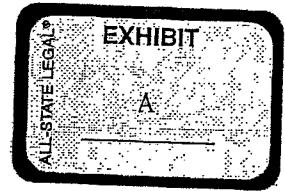
We were also told that the leader of Teamsters Local 667 has wage and benefits that exceed \$210,000 a year.

Is this what West Memphis needs to deal with? Absolutely NOT! We can only hope that the employees of this West Memphis company have the common sense to send Teamster Local 667 back across the bridge with a strong message they are not welcome on this side of the Mississippi River.

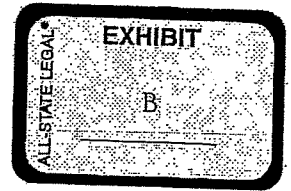
## BIBLE VERSE

Every way of a man is right in his own eye but the LORD pondereth the hearts.

Proverbs 21:



NATIONAL LABOR RELATIONS BOARD  
REGION 26



WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF ED BARR

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, ED BARR, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Manager in blow molding.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").


4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
ED BARR

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF TODD BAUGHER

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, TODD BAUGHER, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Maintenance Manager for Blow Molding.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

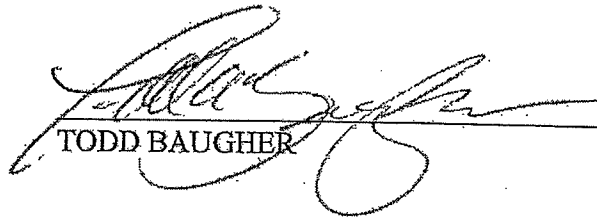
5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant



will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
TODD BAUGHER

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF ROBERT BENSON

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, ROBERT BENSON, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's Jefferson Street facility.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
ROBERT BENSON

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF AARON BLACK

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, AARON BLACK, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Manager at Warren Unilube's Jefferson Street facility.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
AARON BLACK

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF RUSTY BROWN

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, RUSTY BROWN, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as Plant Manager.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

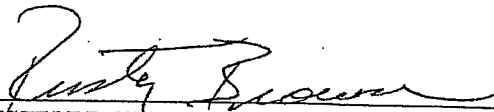
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
RUSTY BROWN

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF DONNIE CRAYTON

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, DONNIE CRAYTON, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

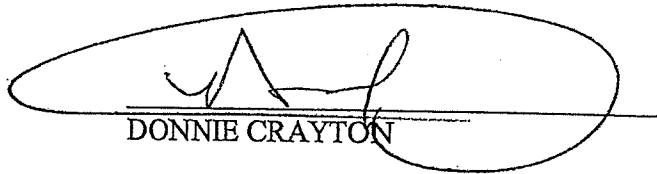
5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant



will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.



DONNIE CRAYTON

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF CLARENCE GRANDBERRY

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, CLARENCE GRANDBERRY, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Shipping Supervisor at Warren Unilube's Jefferson Street facility.

3. I am aware of but have not read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

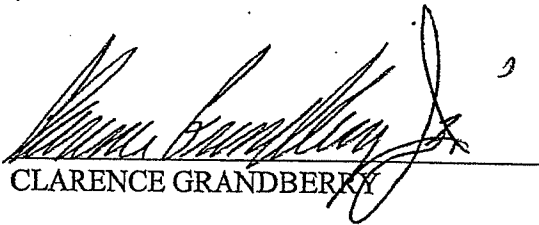
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the

statements in the Editorial and stating specifically (among other things), "The future of this plant will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
CLARENCE GRANDBERRY

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF JOE GRIFFIN

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, JOE GRIFFIN, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

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6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.



JOE GRIFFIN

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF CURTIS HAGGINS

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, CURTIS HAGGINS, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2 I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor in Blow Molding.

3 I have read the editorial titled, "*Our View: Union very bad idea for West Memphis,*" published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

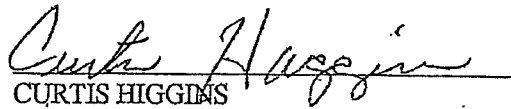
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial

5 I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
CURTIS HIGGINS

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26-CA-23849**

**DECLARATION OF GARY JOHANYAK**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, GARY JOHANYAK, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as the ISO/Quality Assurance Manager.

3. I have read the editorial titled, *"Our View: Union very bad idea for West Memphis,"* published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

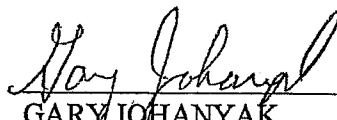
5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant



will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
GARY JOHANYAK

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF PERCY JORDON

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

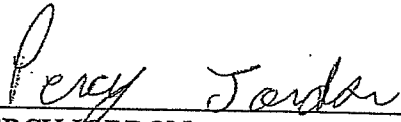
I, PERCY JORDON, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.
2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Manager at Warren Unilube's 8<sup>th</sup> Street facility.
3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.
5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
PERCY JORDON

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF MICHAEL LEWIS

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

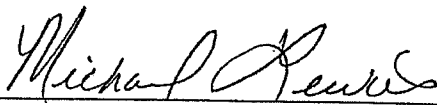
I, MICHAEL LEWIS, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.
2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Blending Manager.
3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.
5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
MICHAEL LEWIS

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF JOSEPH LOUIS, JR.

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, JOSEPH LOUIS, JR., declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor in Blow Molding.

3. I am aware of but have not read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

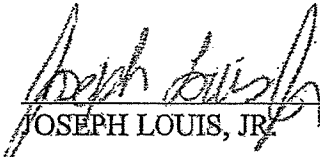
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the

statements in the Editorial and stating specifically (among other things), "The future of this plant will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
JOSEPH LOUIS, JR.

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF GAIL MATTHEWS

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, GAIL MATTHEWS, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Blow Molding Manager.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant



will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
GAIL MATTHEWS

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF PATRICK MCCLOSKEY

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, PATRICK MCCLOSKEY, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as the Environmental, Health and Safety Manager.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

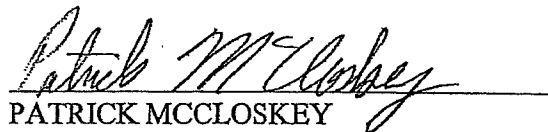
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
PATRICK MCCLOSKEY

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF JAMES MENGARELLI

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, JAMES MENGARELLI, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Shipping Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
JAMES MENGARELLI

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF LEE MOSBY

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, LEE MOSBY, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

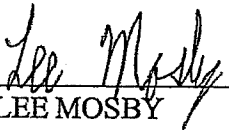
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
LEE MOSBY

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF KELVIN SIMS

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, KELVIN SIMS, declare and state as follows:

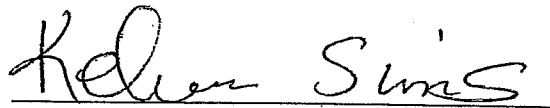
1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.
2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's Jefferson Street facility.
3. I am aware of but have not read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.
5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the



statements in the Editorial and stating specifically (among other things), "The future of this plant will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
KELVIN SIMS

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26-CA-23849**

**DECLARATION OF CRAIG STAUFFER**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, CRAIG STAUFFER, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Transportation/Warehouse Manager.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

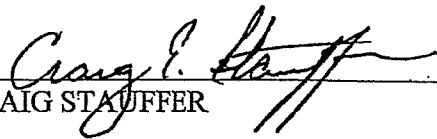
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
CRAIG STAUFFER

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26-CA-23849**

**DECLARATION OF CHARLES SUGGS**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, CHARLES SUGGS, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor in Blow Molding.

3. I have read the editorial titled, *"Our View: Union very bad idea for West Memphis,"* published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").


4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
CHARLES SUGGS

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF JAMES TIPTON

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, JAMES TIPTON, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Blending Supervisor.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

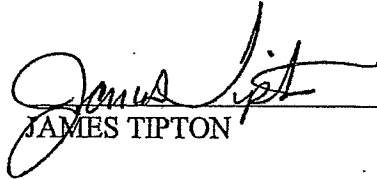
4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.

5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant

will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election.”

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
JAMES TIPTON

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26-CA-23849

DECLARATION OF DALE WELLS

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, DALE WELLS, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as President.

3. I have read the editorial titled, "*Our View: Union very bad idea for West Memphis*," published in the Crittenden County Times newspaper on October 6, 2010 (the "Editorial").

4. I have never spoken with anyone with the Crittenden County Times regarding any of the statements made in the Editorial, and I have never asked anyone to speak on my behalf with anyone with the Crittenden County Times regarding any of the statements made in the Editorial. Also, I was not aware that the Crittenden County Times intended to publish any information or commentary regarding the scheduled National Labor Relations Board election prior to publication of the Editorial.


5. I am aware that, after the Editorial was published, Dale Wells, President of Warren Unilube, distributed a memorandum to all employees (the "Memorandum") disputing the statements in the Editorial and stating specifically (among other things), "The future of this plant



will be decided by the offices and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election."

6. I have not had any discussions with any potential bargaining unit member regarding the Editorial in which I indicated anything contrary to the Memorandum distributed by Mr. Wells.

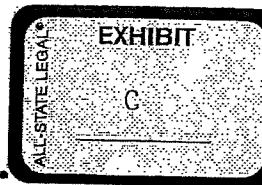
Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
DALE WELLS



# WARREN<sup>®</sup> Unilube Inc.

P.O. Box 2048  
West Memphis, AR 72303-2048  
870-735-1514 or 800-428-9284



Dear Fellow Employee:

As you know, for the last few weeks, we have been encouraging you to ask questions and to do your own homework so that you have the facts needed to make an informed vote on October 8<sup>th</sup>, the date employees decide whether they want a union to take over as their exclusive representative. Now, I understand that yesterday an editorial was included in the Opinion section of the Crittenden County Times; expressing the Newspaper's views on unions and about the upcoming election. The article raised the question of whether this plant would close in the event that Warren Unilube employees at this facility vote for the union on Friday. In response, **WE CAN SAY THIS...** please disregard ALL rumors. The future of this plant will be decided by the officers and directors of the company and only the statements issued by officers of this company as to the future of this plant can be regarded as reliable and authentic. Additionally, we want all of you to know that Warren Unilube has no intent to close this plant no matter the outcome of this election. We've said it before and we'll say it again: *You owe it to yourself and to your family to base your vote on the facts, not on rumors or speculation.*

Lastly, Rusty and I want to once more emphasize just how important it is for you to vote in the secret ballot election on October 8<sup>th</sup>. **The outcome of the election is determined solely by the majority of those who actually vote.** This means that if you do not vote, you are essentially casting a vote for the union. The outcome of this election is far too important to just leave it to chance. Do not allow others to decide your future for you. Therefore, we ask that each eligible employee take part in the secret ballot election process and that you vote "No".

Sincerely,

  
Dale Wells, President

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26- RC-8616

DECLARATION OF LEE MOSBY

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

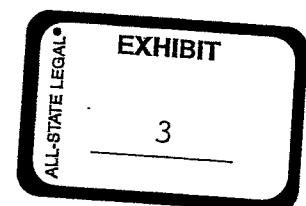
I, LEE MOSBY, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3. During the recent campaign leading up to the union election held on November 5, 2010, I recall supervisors making comments about employees being worried about retaliation by the company. Employees also made comments to me in passing about their concerns about retaliation. For example, I remember someone saying he hoped that the company would not retaliate against employees who supported the union. Throughout the campaign, I assured employees that nothing would happen to union supporters.

4. I recall there being rumors that the plant would close if the union was voted in. For example, one employee who had been a member of the union before said that "that man" (meaning Irvin Warren, the owner of Warren Unilube, Inc.) is probably going to close this place if the union comes in.



5. I am familiar with the editorial that was published in a local newspaper regarding the union election at Warren Unilube. Shortly after the editorial was published, I heard Warren Unilube employees discussing it. Although I cannot remember who, I remember at least one employee saying that the information in the editorial was similar to comments they had heard from Rusty Brown, Warren Unilube's Plant Manager at the West Memphis facility. The employee suggested Warren Unilube had something to do with the editorial being published because some of the same information that Mr. Brown gave out during meetings was also in the editorial. I heard that observation from several employees and believe other supervisors heard it as well.

6. Before the election scheduled for October 8, 2010, I believe the union election momentum was in Warren Unilube's favor. After the unfair labor practice charge, however, I believe the union increased its pressure on employees and campaign efforts.

7. Most employees, both union and non-union supporters, were unhappy that the election was being delayed and just wanted it over with.

8. Some employees believed that it was Warren Unilube's fault that the election was delayed because Warren Unilube must have done something that led to the union's unfair labor practice charge.

9. Although I cannot remember who made the comment, I heard an employee say they thought the delay occurred because the union needed more time.

10. Before the October election, I believed the election was leaning towards the union losing the election. I personally believe the delay in holding the election impacted the results of the election. Based on my conversations with employees shortly before the October election, I thought the union would be defeated back in October.

11. Another supervisor, Percy Jordon, heard that Ann Morris and Rochelle Howard asked them to vote for the union so that they would have it even if they themselves weren't going to be members.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
LEE MOSBY

NATIONAL LABOR RELATIONS BOARD  
REGION 26

WARREN UNILUBE COMPANY

Case No. 26- RC-8616

DECLARATION OF JOE GRIFFIN

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, JOE GRIFFIN, declare and state as follows:

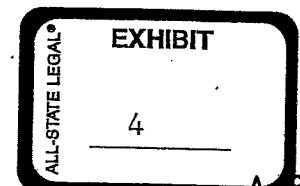
1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Production Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3 I am familiar with an editorial that was published in a local newspaper prior to the October union election.

4. After the editorial was published, I heard rumors from four or five different employees that Warren Unilube placed the editorial in the paper to scare its employees. Another rumor that circulated on the production floor was that the company placed the editorial in the paper so the union would file an unfair labor practice charge and the election would be delayed because the company wanted to delay the election.

5. Before the election scheduled for October 8, 2010, I felt the momentum was in Warren Unilube's favor. I also believe that the delay in holding the election hurt Warren Unilube. Before the delay, employees would speak with me about election issues. After the delay, employees stopped talking to me and I could not get a gauge on anyone.



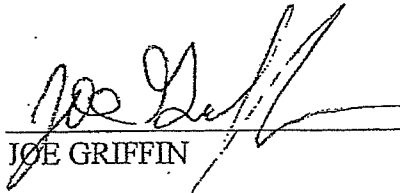
6. I never heard anyone say that the union filed the charge so it could get more time.

7. The majority of employees wanted the election to be over in October and were upset by the delay.

8. I believe the delay in holding the election impacted the election results. Because of the delay, the union had more time to campaign and distribute propaganda. Based on the lull in discussions, I believe the union told employees not to talk anymore so that we supervisors would not know what the employees were thinking.

9. Before the election, I also heard rumors circulating among employees that the plant would close if the union was voted in. That rumor was widespread throughout the election process even though Rusty Brown kept reiterating that the plant would not close.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct

  
JOE GRIFFIN

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26- RC-8616**

**DECLARATION OF MELVIN SADDLER**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

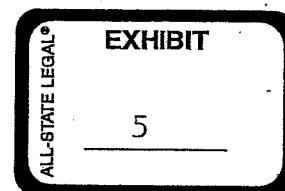
I, MELVIN SADDLER, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Quality Assurance Inspector at Warren Unilube's 8<sup>th</sup> Street facility. I am an hourly employee, and I was eligible to vote in the union election on November 5, 2010.

3. I am familiar with the editorial that was published in a local newspaper about the union election at Warren Unilube just before the election scheduled for October 8, 2010. I saw the editorial while at home, and employees were talking about it the next day, all day long. All of the employees seemed to believe that the company was behind the editorial being published. After the editorial, the company sent out a memo saying that the company didn't have anything to do with the editorial, but even after the memo came out, some employees still thought Warren Unilube was behind the editorial and had published it as a scare tactic.

4. When the election was put off, about half of the employees I spoke with said that the Labor Board had stepped in and delayed the election because the company had put the editorial in the newspaper.





5. All of the employees I know wanted to get the election over and done with.

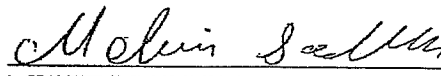
6. I think the delay in the election impacted the election results. Just before the election scheduled for October 8, 2010, the employees had seen some films that really hit home in a way that was helpful to Warren Unilube. Employees were worried about putting their livelihoods on the line, like if there was a strike.

7. Putting the election off for a month gave the union more time to win the support of employees. I believe the delay in the election hurt Warren Unilube in the election.

8. Before the election, I heard comments all the time from other employees that they were not going to join the union, but they were going to vote for the union so others can join it

9. I heard rumors that Warren Unilube had a list of the people who signed cards and that the company would terminate them. I heard that rumor throughout the election process. Several employees said that if we did not elect a union, Warren Unilube was going to fire all of those employees.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
MELVIN SADDLER

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26- RC-8616**

**DECLARATION OF JAMES MENGARELLI**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, JAMES MENGARELLI, declare and state as follows:

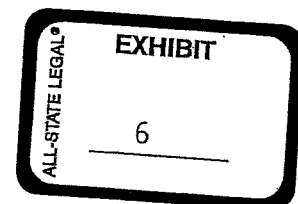
1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas as a Shipping Supervisor at Warren Unilube's 8<sup>th</sup> Street facility.

3. Immediately before the election scheduled for October 8, 2010, I had a really strong feeling the union was not going to be voted in. However, the closer we got to the rescheduled election, I felt that some votes were swayed based on the demeanor on the floor and the demeanor of the employees.

4. One rumor I heard a lot before the election rescheduled for November 5, 2010 was that employees should vote the union in even if they did not want to join it. I don't recall hearing much (if any) of that kind of discussion at all before the October election, but I do remember hearing a lot of that discussion just before the November election.

5. I am familiar with an editorial that was published in the local newspaper shortly before the election scheduled for October. After the editorial, the company distributed memos to all employees saying that the company did not have anything to do with the newspaper



publishing the editorial and stating that certain statements in the editorial (for example, that he company would close the plant if the union were voted in) were not true. Even after the company memo came out, during break times and lunch time, employees were still talking about the editorial and saying that someone at Warren Unilube knew someone at the newspaper and that is how the editorial got in the paper.

6. A lot of the employees were upset that the election did not happen on the original date in October. For example, I heard one employee say to another that we need to let the election go through and get it behind us whether we win or lose.

7. I know that some of the employees believed or had heard rumors that certain people would be fired after the election. One employee asked me before the election, "Who are y'all going to get rid of when all of this is over?"

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
\_\_\_\_\_  
JAMES MENGARELLI



Wyrick Robbins Yates & Ponton LLP

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BENJAMIN N. THOMPSON  
bthompson@wyrick.com

November 24, 2010

**VIA FACSIMILE (901.544.0008)**  
**ORIGINAL VIA FEDERAL EXPRESS**

Ronald K. Hooks, Regional Director  
National Labor Relations Board, Region 26  
80 Monroe Avenue, Suite 350  
Memphis, Tennessee 38103-2416

Re: *Warren Unilube, Inc.*  
*Case No. 26-RC-8616*

Dear Mr. Hooks:

As referenced in yesterday's letter to you, attached are the Declarations of Cordedro Banks and Henry Driver in support of Warren Unilube, Inc.'s Objections to Conduct Affecting Results of Election. As indicated in yesterday's letter, these Declarations are consistent with the summary of Mr. Banks' and Mr. Driver's anticipated testimony set forth in that letter.

Please let us know should you have any questions.

Sincerely,

WYRICK ROBBINS YATES & PONTON LLP

Benjamin N. Thompson  
Jennifer M. Miller  
J. Kellam Warren

cc: William R. Yarbrough, Deputy Regional Director (*via electronic mail only; with attachments* [William.Yarbrough@nrlrb.gov](mailto:William.Yarbrough@nrlrb.gov))

William T. Hearne, Field Attorney (*via electronic mail only; with attachments* [William.Hearne@nrlrb.gov](mailto:William.Hearne@nrlrb.gov))

Frederick J. Lewis, Esq. (*via electronic mail only; with attachments* [Fred.Lewis@ogletreedeakins.com](mailto:Fred.Lewis@ogletreedeakins.com))

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26- RC-8616**

**DECLARATION OF HENRY DRIVER**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, HENRY DRIVER, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2. I am currently employed by Warren Unilube Inc ("Warren Unilube") in West Memphis, Arkansas as the lead blender in Warren Unilube's 8<sup>th</sup> Street facility. I am an hourly employee, and I was eligible to vote in the union election on November 5, 2010.

3. When the election was delayed from October 8, 2010, I heard the delay was because somebody went to newspapers and posted things disrespecting the union and talking bad about the union. I heard the union filed an unfair labor act with the Labor Board and that's why the election was delayed.

4 I am aware that a local newspaper published an editorial about the union election at Warren Unilube but I did not read the editorial. Some of the employees said that the company got the editorial put in the paper because it was scared it was going to lose and was trying to get the election postponed. Other employees thought the union had gotten the article in the paper. I heard a handful of employees say that the union wanted the election delayed -- that the pro-union

employees were behind the editorial because the editorial would make the election null and void and the union would come in right away. People thought this because some of the information in the editorial was the same information Rusty Brown (the company's Plant Manager) was saying at the meetings with the employees, so they thought that the employees were taking the information from Mr. Brown and giving it to the newspaper to make it look like it came from the company.

5. All employees at Warren Unilube, whether union supporters or not, were ready to get the election behind them and were unhappy that it was delayed.

6. Based on my discussions with other employees, I don't think the union would have been voted in in the October election. In October, I thought that there were enough people voting against the union that the union wouldn't win. In my opinion, the union needed more time to convince employees to vote in their favor.

7. I heard a rumor from a lot of people that Warren Unilube had a list of everyone who signed the petition to have the union election and that the company President had it in his desk and that the company was going to fire all of those people if the union came in.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
HENRY DRIVER

**NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**WARREN UNILUBE COMPANY**

**Case No. 26-CA-23849**

**DECLARATION OF CORDEDRO BANKS**

STATE OF ARKANSAS

COUNTY OF CRITTENDEN

I, CORDEDRO BANKS, declare and state as follows:

1. I am over 18 years of age, I am competent to make this Declaration, and I make this Declaration of my own personal knowledge. I make this Declaration voluntarily. I have not received any compensation or thing of value in return for my statements contained herein.

2 I am currently employed by Warren Unilube Inc. ("Warren Unilube") in West Memphis, Arkansas in Warren Unilube's blow molding department. I am an hourly employee. I was an observer at the union election on November 5, 2010 and eligible to vote in that election.

3. I think the delay in holding the election between October 8, 2010 and November 5, 2010 made a big difference in the outcome of the election. During the delay, a lot of employees changed their minds to vote for the union. Because of the delay, the union had more chances to talk to employees and get them to vote for the union.

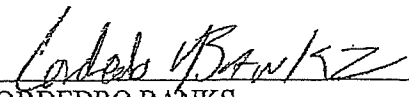
4. I think if the election had not been delayed, there would have been a different result and that the union would not have been voted in. This is based on my discussions with other employees and what other employees told me before the two elections. I think a lot of people's minds were made up as to how they were going to vote in October and that they were going to vote against the union, but then they changed their votes after the election was delayed. In fact, I know of more than 20 employees whose minds were made up to vote against the union before

the October election, and then by the time of the November election, those employees began talking as if they were leaning in favor of the union.

5. I was upset that the election was delayed and many other employees were also upset about the delay. I don't know why the election was delayed. I heard there was something about a lawsuit – that the company was going to close the plant if the union came in and someone had leaked that to the newspaper and the union had filed a lawsuit or was going to file a lawsuit. I felt that the election should not have been rescheduled.

6. After the newspaper article came out, I heard rumors that the company was going to close the plant if the union came in

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

  
CORDEDRO BANKS